

# Notice of Allowability

Application No.

10/060,694

Examiner

Marianne L. Padgett

Applicant(s)

CRAMER ET AL.

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amend. & terminal disclaimer of 7/29/04 & interview of 9/7/04.
2. ☒ The allowed claim(s) is/are 1-8, 12, 13 and 24-26.
3. ☒ The drawings filed on 30 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets" ) must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948 ) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date this
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/29/04 has been entered.

2. Newly submitted claim 27 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the product is only limited by structure necessitated by the method claims, not the actual steps preformed, hence the product may be made by different processes, such as those that do not include a step increasing surface energy or using irradiation therefore, as long as nanoparticles are part of the structure, which may be on the material's surface.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

Accordingly, claim 27 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Eric Addington on 8/7/04.

In the claims:

Cancel non-elected claim 27.

In claim 1, line 5, after "material" insert "--via an irradiation technique--"; and

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in the last line change "a bodily...material" to --the material having said nanoparticles applied is capable of absorbing bodily exudates and is hydrophilic--.

In claim 12, line 1, change "absorbent article" to --material having said nanoparticles applied is used in an article that--.

In claim 13, line 1, change "portion is" to --components are--.

In claims 24, 25 & 26, lines 1, after "thereto" insert --is nonwoven textile--.

4. The following is an examiner's statement of reasons for allowance: Applicants' amendments remove the 112 problems as recited in section 2 of the action mailed 4/27/04, with the above amendments correcting antecedence problems created by that amendment, clarifying the results of the process, making the body and steps of the claim commensurate in scope, and clarifying the scope of the surface energy step to be consistent with the intent as described on page 32 of the specification. The new claims 24-26, along with discussion on p.6 of the 7/29/04 response, cited pages 3 & 48 in the specification, plus affidavit with the EDANA standard<sup>1</sup> nce, correct/explain previously noted problems/questions with the "Strike through Test", with the above nonwoven limitation making the claims consistent with the standards definition.

The terminal Disclaimer of 7/29/04 over PN 6,645,569 has been approved, hence removes the obviousness double patenting rejection of section 4 of the paper mailed 4/27/04.

The amended limitations concerning "absorbing bodily exudates" effectively removes the Verschueren et al (6,045,969) patent. Cancellation of claims 14-23 removes the rejection over Kasugi et al (3,660,142).

Other art of interest to the state of the art, but not prior art includes Jordan et al (2004/0127123 A1, see claims 30-37, esp. 31; and Busam et al (2004/0167486 A1, see [0046]), who teach use of irradiation treatments in forming hydrophilic materials related to those claimed.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne L. Padgett whose telephone number is (571) 272-1425. The examiner can normally be reached on M-F from about 8:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck, can be reached on (571) 272-1415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MLP 9/8/04

A handwritten signature in black ink, appearing to read "Marianne L. Padgett", written in a cursive style.

**MARIANNE PADGETT  
PRIMARY EXAMINER**